IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.190 OF 2006
with
NOTICE OF MOTION NO.101 OF 2006

Hindustan Zinc Ltd. ... Petitioner
v/s.
The Metal (Excluding Iron and Steel) and Paper Markets and Shops) Mathadi Labour Board for Greater Mumbai (for Mumbai), Thane & Raigad Dist.) ... Respondents

Mr.Arshad Shaikh with Mr.Raju Gawade, Ms.Deepa Wakade i/by M/s.K.Ashar & Co. for petitioner.

Mr.Neel G. Helekar for res.No.1.

Ms.S.I. Shah for res.No.2.

Mr.Pradeep Jadhav, AGP for res.No.4.

CORAM : H.L. GOKHALE &
ABHAY S. OKA, JJ.

DATED : 23rd February 2006

P.C. :

1. Heard the learned Counsel for the parties.

2. The Petition seeks to challenge the order dated 16th June 2005 passed by the Metal (Excluding Iron and Steel) and Paper Markets and Shops Mathad Labour Board ("the Board" for short). That order levies and calls upon the petitioner to pay an amount of Rs.13,77,367/- being the levy in view of the wages not paid to a particular toli of the Mathadi workers which was supposed to be engaged by the petitioner. The order records that

the petitioner was issued notices from time to time for attending the hearing before the Board. From the order it is seen that the notices were given from 10th May 2004 onwards on a number of dates.

3. Mr.Shaikh appearing for the petitioner points out that a couple of replies have already been sent but that apart hearings were fixed before the Board under Section 13 of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969. However, nobody from the petitioner's side attended the hearings and, therefore, loss of wages and levy was determined ex-parte. It is this order which is under challenge.

4. The only way according to us to remedy the situation is that the petitioner must deposit this amount with the 1st respondent-Board. Mr.Shaikh appearing for the petitioner says that the petitioner needs four weeks' time to deposit this amount. In the event this amount is so deposited, the 1st respondent-Board will issue a notice for a de novo hearing and the determination will be reopened and after hearing the petitioner,

appropriate decision will be arrived at.

5. Mr.Shaikh submits that the Board has no jurisdiction and on facts also such an order was not called for. All such submissions will be open to be raised before the Board and we expect the Board to decide them on their merits. We make it clear that since the time of four weeks is sought, the enforcement of this order will remain stayed during this period. In the event this amount is not so deposited within four weeks, the office of the Collector, who is respondent No.3, will be at liberty to execute this order.

6. The deposit of the above amount will be subject to the outcome of the proceedings and in the event it is held that the petitioner is not liable either for the full or part of the amount, the Board will consider refunding the amount with appropriate rate of interest. Petition stands disposed of.

7. In view of the disposal of the Petition, no orders are necessary on the Motion and the same is also disposed of as rendered infructuous.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)